

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

MYRTLE LYNN PREWITT

PLAINTIFF

v.

**CAUSE NO. 1:06CV338-LG-DAS
CAUSE NO. 1:10CV225-LG-DAS**

MISSISSIPPI STATE UNIVERSITY

DEFENDANT

**ORDER DENYING DEFENDANT'S MOTION TO
DISMISS WITH PREJUDICE AND FOR OTHER RELIEF**

BEFORE THE COURT is the Motion [275] to Dismiss with Prejudice and for Other Relief filed by Mississippi State University. Mississippi State asks this Court to dismiss this lawsuit due to alleged misconduct on the part of Plaintiff Myrtle Lynn Prewitt and her attorney. Upon reviewing the submissions of the parties and the applicable law, the Court finds that the Motion to Dismiss should be denied.

DISCUSSION

Mississippi State has filed the present Motion pursuant to Fed. R. Civ. P. 41(b), which provides, "If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it." Mississippi State asks the Court to dismiss this lawsuit, because Prewitt has repeatedly accused this Court and the Fifth Circuit of racial animus, made remarks in an attempt to insult members of the federal judiciary, accused Mississippi State's attorneys of criminal conduct, attempted to engage in ex parte conduct with the Fifth Circuit, and asked the Federal Bureau of Investigation and three United States Attorneys to investigate the Fifth Circuit panel that decided

the appeal of this matter. Mississippi State also describes at length other conduct by Prewitt and her attorney that have allegedly caused delay and confusion in this lawsuit. It points out that Prewitt has disregarded Court Orders by, among other things, making arguments that have previously been rejected by the Court on multiple occasions.

The Court finds that dismissal is not warranted in this matter. The Fifth Circuit held less than one year ago that dismissal with prejudice is not warranted in this matter due to the conduct of Prewitt and her attorney but encouraged the Court to utilize other methods in order to manage the difficulties presented by this lawsuit. (Opinion, ECF No. 263). Most of the subsequent alleged misconduct described in Mississippi State's Motion and Memorandum was directed at the Fifth Circuit Court of Appeals, and this Court will defer those matters to Fifth Circuit. As for the conduct before this Court, Prewitt and her attorney have been cautioned not to make arguments that have previously been rejected in this Court's Order denying Prewitt's Motion for Default Judgment. In addition, this Court has not and will not consider remarks made by any Officer of this Court that it finds abusive, offensive, or disrespectful.

CONCLUSION

For the foregoing reasons, the Court finds that the Motion to Dismiss should be denied.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Motion [275] to Dismiss with Prejudice and for Other Relief filed by Mississippi State University

is **DENIED**.

SO ORDERED AND ADJUDGED this the 29th day of May, 2012.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE